IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

W.A.No.2905 of 2007

AGAINST THE JUDGEMENT IN W.P.(C).NO.33478/2007 DATED 28/11/2007

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APPELLANT: 3RD RESPONDENT:-

MUHAMMED,
S/O. POCKER,
ERAMBATH HOUSE,
KALIKAVU,
MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS: PETITIONER & RESPONDENTS 1 AND 2:-

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1. K.T.MOOSAKUTTY HAJI,
   KARALIKKATTIL HOUSE,
   NEAR WANDOOR ORPHANAGE,
   WANDOOR,
   MALAPPURAM DISTRICT.

2. THE REGIONAL TRANSPORT AUTHORITY,
   MALAPPURAM.

3. THE SECRETARY,
   REGIONAL TRANSPORT AUTHORITY,
   MALAPPURAM.

R2 & R3 BY SENIOR GOVERNMENT PLEADER SMT.K.MEERA.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 06/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.2905 of 2007

Dated, this the 6th day of December, 2007

JUDGMENT

K.T.Sankaran. J.

The appellant herein filed an application for grant of permit. That application was rejected. Challenging that order he filed M.V.A.A.No.128 of 2007 before the State Transport Appellate Tribunal, Ernakulam. By Ext.R3(a) judgment dated 19th March, 2007 the Tribunal allowed the appeal. The operative portion of the judgment reads thus:

> "In the result, the appeal is allowed and it is ordered to grant permit as claimed, subject to settlement of timing, provided the appellant is qualified for the grant."

2. Complaining that Ext.R3(a) judgment was not implemented, Muhammed (the appellant herein) filed W.P.(C) No.18281 of 2007 which was disposed of as per judgment dated 3rd October, 2007. That writ petition was allowed and a direction was issued to implement Ext.R3(a) judgment.

3. The present writ petition is filed by K.T.Moosakutty Haji who is an existing operator. The learned Single Judge disposed of the writ petition directing that the second respondent - Secretary, Regional Transport Authority shall not issue permit to Muhammed unless and until the timings is settled as directed in Ext.R3(a) judgment. The learned Judge has also noticed that no larger relief than what is granted in Ext.R3(a) could be granted and Ext.R3(b) judgment would not have been passed in the manner it was rendered, had it

been brought to the notice of the Court. There is no infirmity in the judgment passed by the learned Single Judge.

Writ appeal is accordingly dismissed. The direction issued by the learned Single Judge to convene the timing conference is confirmed.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns